

**IN THE INCOME TAX APPELLATE TRIBUNAL
DELHI BENCH "SMC", NEW DELHI**

BEFORE SHRI N.S. SAINI, ACCOUNTANT MEMBER

ITA No.5549/Del/2018
Assessment Year: 2013-14

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| Smt. Charu Goyal, BN-09, Shalimar Bagh, Poorvi Delhi-110088 PAN No. AETPG0518C (APPELLANT) | Vs | ITO, Ward – 34 (2) New Delhi (RESPONDENT) |
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| Appellant by | Sh.S. P. Aggarwal, CA |
| Respondent by | Sh. S. L. Anuragi, Sr. DR |

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| Date of hearing: | 16/01/2019 |
| Date of Pronouncement: | 18/01/2019 |

ORDER

PER N. S. SAINI AM:

1. This appeal filed by the assessee is directed against the order dated 31.05.2018 of the CIT(A)-12, New Delhi.
2. The sole issue involved in this appeal is that the CIT (A) erred in confirming Rs.4,89,725/-the addition towards interest expenditure.
3. The brief the facts of the case are that the Assessing Officer observed that the assessee has given interest free loan of Rs.50 ,00,000/- each to Ms. Meenu Singhal and Mr. Pawan Singhal aggregating of Rs.1 crore. The assessee claimed before the Assessing Officer that interest free loans were advance to the two parties out of interest free advances received from Nav Nirman Sewa Samiti in support of the same the assessee filed copy of bank statement, copy of ledger account of Nav Nirman Sewa Samiti and also copy of account of M/s. ADS Hotels Pvt Ltd. and M/s. Forus Portfolio Pvt. Ltd. The Assessing Officer observed that there is contradiction in the submission

of the appellant. The appellant claims that the loans received from Nav Nirman Sewa Samiti was interest free. The Assessing Officer found that the assessee advanced the funds to Nav Nirman Sewa Samiti received from Cholaamandalam Investment & Finance Co. Ltd., therefore, he observed that the claim of the assessee that it had advanced interest free loans out of interest free advances given cannot be accepted.

4. On appeal the CIT(A) held that disallowance of Rs. 11 lacs made by the Assessing Officer over interest calculated for whole of the financial year was not justified. He observed that funds were advanced to Meenu Singhal on 10.10.2012 and 20.10.2012 and to Shri Pawan Singhal on 23.10.2012, therefore, he held that proportionate disallowance of interest for the period funds were advanced to the two persons was to be made. Accordingly he restricted the disallowance of Rs.4,89,725/- as against Rs.6,10,275/- made by the Assessing Officer.

5. Before us the AR of the assessee reiterated made before the Assessing Officer and the CIT(Appeals).

6. The DR on the other hand supported the orders of the lower authorities.

7. In the above facts and circumstances of the case I find that the assessee has filed before me copy of bank pass book of Canara Bank ledger account of Nav Nirman Seva Samiti, copy of ledger account of Ms.Meenu Singhal, copy of ledger account of Sh. Pawan Singhal, copy of ledger account of M/s. ADS Hotels Pvt. Ltd. and copy of ledger account of M/s. Forus Portfolio Ltd. to show that the loans advanced by the assessee to the two persons were out of interest free funds received by the assessee. I find that the Assessing Officer as well as the CIT(Appeals) has made the addition only on the ground that the assessee earlier submitted that it had advanced interest free loans to the two parties out of interest free funds received from M/s. ADS Hotels Pvt. Ltd. and M/s. Forum Portfolio Ltd. Both the lower authorities had not examined the other evidence filed before them by the assessee for its claim that the loans advanced were out of interest free funds of the assessee. In the above facts and circumstances I consider it fit for

restoring the matter back to the file of the Assessing Officer adjudicating the issues involved afresh after allowing reasonable opportunity of hearing to the assessee. I order accordingly.

8. In the result, the appeal filed by the assessee is allowed for statistical purpose.

Order pronounced in the open court on 18.01.2019.

Sd/-
(N. S. SAINI)
ACCOUNTANT MEMBER

Dated: 18.01.2019.

Neha

Copy of order to: -

- 1) The Appellant
- 2) The Respondent
- 3) The CIT
- 4) The CIT(A)
- 5) The DR, I.T.A.T., New Delhi

Assistant Registrar
ITAT, New Delhi

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| Date of dictation | 16.01.2019 |
| Date on which the typed draft is placed before the dictating Member | |
| Date on which the approved draft comes to the Sr.PS/PS | |
| Date on which the fair order is placed before the Dictating Member for Pronouncement | |
| Date on which the fair order comes back to the Sr. PS/ PS | |
| Date on which the final order is uploaded on the website of ITAT | 18.01.2019 |
| Date on which the file goes to the Bench Clerk | |
| Date on which file goes to the Head Clerk. | |
| The date on which file goes to the Assistant Registrar for signature on the order | |
| Date of dispatch of the Order | |